

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 02-CA-293869	Date Filed 4-12-22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Siren Retail Corporation		b. Tel. No. 206-318-2212
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 61 Ninth Avenue New York, New York 10011	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail [REDACTED]@starbucks.com
		h. Number of workers employed 99
i. Type of Establishment (factory, mine, wholesaler, etc.) Coffee shop	j. Identify principal product or service Food and beverage	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) **3** of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Beginning on or around April 2, 2022, one day after the union was elected to represent employees of the Employer, the Employer, by its agents, officers, and representatives, disciplined employees in retaliation for their support of the union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
New York-New Jersey Regional Joint Board

4a. Address (Street and number, city, state, and ZIP code) 305 Seventh Avenue, 7th Floor New York, NY 10001	4b. Tel. No. 212-475-3131
	4c. Cell No.
	4d. Fax No.
	4e. e-mail jkelly@workersunitednynj.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
Workers United, a/w SEIU

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

/s/Marie B. Hahn

Attorney

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Cohen, Weiss and Simon LLP

Address 900 Third Ave. Suite 2100, New York, NY, 10022

Date 04/12/2022

Tel. No.
212-356-0257Office, if any, Cell No.
630-229-2112

Fax No.

e-mail
mhahn@cwsny.com**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlrb.gov
Telephone: (212)264-0300
Fax: (212)264-2450



Download
NLRB
Mobile App

April 12, 2022

Siren Retail Corporation
Attn: (b) (6), (b) (7)(C)
61 Ninth Avenue
New York, NY 10011

Re: Siren Retail Corporation
Case No. 02-CA-293869

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney JACOB FRISCH whose telephone number is (212)776-8613. If this Board agent is not available, you may contact Supervisory Field Attorney GEOFFREY DUNHAM whose telephone number is (212)776-8609.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "John J. Walsh, Jr.", written in a cursive style.

JOHN J. WALSH, JR.
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 02-CA-293869
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlrb.gov
Telephone: (212)264-0300
Fax: (212)264-2450



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April 12, 2022

New York New Jersey Regional Joint Board, Workers United, Affiliated with Service
Employees International Union
305 7th Avenue, Floor 7
New York, NY 10001

Re: Siren Retail Corporation
Case No. 02-CA-293869

Dear Sir or Madam:

The charge that you filed in this case on April 12, 2022 has been docketed as case number 02-CA-293869. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney JACOB FRISCH whose telephone number is (212)776-8613. If this Board agent is not available, you may contact Supervisory Field Attorney GEOFFREY DUNHAM whose telephone number is (212)776-8609.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in cursive script, reading "John J. Walsh, Jr.".

JOHN J. WALSH, JR.
Regional Director

cc: Marie B. Hahn, Attorney
Cohen, Weiss & Simon LLP
900 Third Avenue
Suite 2100
New York, NY 10022-4869

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

SIREN RETAIL CORPORATION

and

**NEW YORK NEW JERSEY REGIONAL JOINT
BOARD, WORKERS UNITED, AFFILIATED
WITH SERVICE EMPLOYEES
INTERNATIONAL UNION**

**Cases 02-CA-292646
02-CA-293869
02-CA-295319**

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 02-CA-292646, 02-CA-293869, and 02-CA-295319, which are based on charges filed by New York New Jersey Regional Joint Board, Workers United, Affiliated with Service Employees International Union (Charging Party or Union), respectively, against Siren Retail Corporation (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. (a) The charge in Case 02-CA-292646 was filed by the Charging Party on March 21, 2022, and a copy was served on Respondent by U.S. mail on March 22, 2022.

(b) The charge in Case 02-CA-293869 was filed by the Charging Party on April 12, 2022, and a copy was served on Respondent by U.S. mail on April 12, 2022.

(c) The charge in Case 02-CA-295319 was filed by the Charging Party on May 5, 2022, and a copy was served on Respondent by U.S. mail on May 6, 2022.

2. (a) At all material times, Respondent, a Washington corporation, with a facility located at 61 Ninth Avenue, New York, NY, has been engaged in the retail sale of food and beverages.

(b) Annually, Respondent, in the course and conduct of its business operations described above in subparagraph (a), derives gross revenues in excess of \$500,000 and purchases and receives goods and materials valued in excess of \$5,000 directly from points located outside the State of New York.

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

5. On or about March 22, 2022, Respondent, by (b) (6), (b) (7)(C) interrogated employees about their union activities.

6. (a) On or about (b) (6), (b) (7)(C) 2022, Respondent disciplined its employee (b) (6), (b) (7)(C)

(b) Respondent engaged in the conduct described above in subparagraph (a) because the named employee of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

7. (a) On or about (b) (6), (b) (7)(C) 2022, Respondent disciplined its employee (b) (6), (b) (7)(C).

(b) Respondent engaged in the conduct described above in subparagraph (a) because the named employee of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

8. (a) On or about (b) (6), (b) (7)(C) 2022, Respondent disciplined its employee (b) (6), (b) (7)(C) (b) (6), (b) (7)(C).

(b) Respondent engaged in the conduct described above in subparagraph (a) because the named employee of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

9. (a) On or about (b) (6), (b) (7)(C) 2022, Respondent disciplined its employee (b) (6), (b) (7)(C).

(b) Respondent engaged in the conduct described above in subparagraph (a) because the Respondent believed the named employee of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

10. By the conduct described above in paragraph 5, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

11. By the conduct described above in paragraphs 6 through 9, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employees of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

12. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDIES

The General Counsel seeks an Order providing for all relief as may be just and proper to remedy the unfair labor practices alleged, including, but not limited to, requirements that Respondent:

(a) physically post the Notice to Employees at Respondent's facility located at 61 Ninth Avenue, New York, NY;

(b) electronically distribute the Notice to Employees to all employees employed by Respondent at its facility located at 61 Ninth Avenue by text messaging, posting on social media websites, and posting on internal apps, if Respondent communicates with its employees by such means; and

(c) reduce (b) (6), (b) (7)(C) [REDACTED], 2022 Final Written Warning to a Warning as it relied upon the Respondent's unlawful (b) (6), (b) (7)(C) [REDACTED] 2022 discipline described in paragraph 6 to issue a Final Warning.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 26, 2022, or postmarked on or before July 25, 2022.** Respondent also must serve a copy of the answer on each of the other parties. The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless

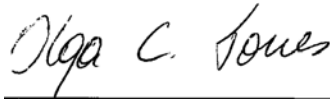
notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on Wednesday, September 28, 2022, at 9:30 a.m., and on consecutive days thereafter until concluded, a hearing will be held before an Administrative Law Judge, via videoconference technology (such as Zoom, Skype, WebEx, etc.), or at a location otherwise ordered by the Regional Director or Administrative Law Judge. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint.

The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: July 12, 2022

A handwritten signature in cursive script that reads "Olga C. Torres". The signature is written in dark ink and is positioned above a horizontal line.

Olga C. Torres
Acting Regional Director, Region 2
National Labor Relations Board
26 Federal Plaza, Ste. 3614
New York, NY 10278-3699

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 02-CA-292646

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)
Siren Retail Corporation
61 Ninth Avenue
New York, NY 10011

Alan I. Model, Esq.
Littler Mendelson, P.C.
One Newark Center
1085 Raymond Blvd., 8th Floor
Newark, NJ 07102-5235

Julie Kelly
Workers United
305 Seventh Avenue, 7th Floor
New York, NY 10001

Marie B. Hahn , Attorney
Cohen, Weiss & Simon LLP
900 Third Avenue; Suite 2100
New York, NY 10022-4869

New York New Jersey Regional Joint Board,
Workers United, Affiliated with Service
Employees International Union
305 7th Avenue, Floor 7
New York, NY 10001

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

SIREN RETAIL CORPORATION

and

**NEW YORK NEW JERSEY REGIONAL
JOINT BOARD, WORKERS UNITED,
AFFILIATED WITH SERVICE EMPLOYEES
INTERNATIONAL UNION**

**Cases 02-CA-292646
02-CA-293869
02-CA-295319**

**RESPONDENT SIREN RETAIL CORPORATION'S
ANSWER AND AFFIRMATIVE DEFENSES TO CONSOLIDATED COMPLAINT**

Respondent Siren Retail Corporation (“Respondent”) hereby files this Answer to the Regional Director’s Consolidated Complaint, as follows:

1. Respondent admits that it received the charge identified in Paragraph 1(a) of the Consolidated Complaint, but lacks the requisite knowledge to admit or deny the remaining allegations in this Paragraph, and therefore denies those allegations.

2. Respondent admits that it received the charge identified in Paragraph 1(b) of the Consolidated Complaint, but lacks the requisite knowledge to admit or deny the remaining allegations in this Paragraph, and therefore denies those allegations.

3. Respondent admits that it received the charge identified in Paragraph 1(c) of the Consolidated Complaint, but lacks the requisite knowledge to admit or deny the remaining allegations in this Paragraph, and therefore denies those allegations.

4. Respondent admits the allegations contained in Paragraph 2(a) of the Consolidated Complaint.

5. Respondent admits the allegations contained in Paragraph 2(b) of the Consolidated

Complaint.

6. Respondent admits the allegations contained in Paragraph 2(c) of the Consolidated Complaint.

7. Respondent admits the allegations contained in Paragraph 3 of the Consolidated Complaint.

8. Respondent admits the allegations contained in Paragraph 4 of the Consolidated Complaint.

9. Respondent denies the allegations contained in Paragraph 5 of the Consolidated Complaint.

10. Respondent admits the allegations contained in Paragraph 6(a) of the Consolidated Complaint.

11. Respondent denies the allegations contained in Paragraph 6(b) of the Consolidated Complaint.

12. Respondent denies the allegations contained in Paragraph 7(a) of the Consolidated Complaint., except admits that it issued a Written Warning to (b) (6), (b) (7)(C) dated (b) (6), (b) (7)(C), 2022.

13. Respondent denies the allegations contained in Paragraph 7(b) of the Consolidated Complaint.

14. Respondent admits the allegations contained in Paragraph 8(a) of the Consolidated Complaint.

15. Respondent denies the allegations contained in Paragraph 8(b) of the Consolidated Complaint.

16. Respondent admits the allegations contained in Paragraph 9(a) of the Consolidated

Complaint.

17. Respondent denies the allegations contained in Paragraph 9(b) of the Consolidated Complaint.

18. Respondent denies the allegations contained in Paragraph 10 of the Consolidated Complaint.

19. Respondent denies the allegations contained in Paragraph 11 of the Consolidated Complaint.

20. The allegations in Paragraph 12 of the Consolidated Complaint contain a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the allegations.

21. Respondent denies all relief sought by the Region as set forth in the section of the Consolidated Complaint titled “Remedies” and states that the General Counsel is not entitled to the relief requested.

AFFIRMATIVE AND OTHER DEFENSES

Respondent asserts the following defenses, which are not all of its defenses, without assuming any burden of proof not otherwise required of it. Starbucks also reserves the right to revise or change these defenses and plead other defenses.

1. The allegations in the Consolidated Complaint fail to state a claim upon which relief may be granted.

2. The allegations in the Consolidated Complaint are vague and ambiguous.

3. The allegations in the Consolidated Complaint, and the charges underlying the Consolidated Complaint, were filed and made in bad faith, and for vexatious and improper purposes, including to infringe upon Respondent’s rights and the operation of its business.

4. To the extent the Consolidated Complaint contains allegations that are beyond the scope of the charge(s), such allegations are barred under Section 10(b) of the National Labor Relation Act (“NLRA”).

5. At all material times, Respondent has acted in good faith and in compliance with the NLRA.

6. Respondent acted pursuant to its rules and practices, and the individuals identified in Paragraph 6(a), 7(a), 8(a), and 9(a) of the Consolidated Complaint violated Respondent’s rules and practices.

7. The National Labor Relations Board (“NLRB” or “Board”) is not empowered to substitute its judgment for Respondent’s lawful employment decisions.

8. Assuming, *arguendo*, any Consolidated Complaint allegation is found to be a violation of the Act, a retroactive remedy would be a manifest injustice and denial of due process.

9. Any statement made by any of Respondent’s supervisor’s and/or agents during the time covered by the Consolidated Complaint fall within the ambit of Section 8(c) of the Act, and as such, neither constitutes nor can be used as evidence of an unfair labor practice.

10. Insofar as this case comes before the Board, Members Gwynne Wilcox and David Prouty should recuse themselves based on their past, present and perceived relationship with the Service Employees (“SEIU”) International and Local Unions, and their affiliates, including the Charging Party Workers United.

11. Any Consolidated Complaint allegations outside the applicable statute of limitations or any evidence relating to conduct outside the applicable statute of limitations are time barred by Section 10(b) of the Act.

12. By virtue of its actions and inactions, the Region has exceeded or abused its authority under the U.S. Constitution and other laws in the investigation of the unfair labor practice charge(s) and issuance of the Consolidated Complaint, including the denial of Respondent's due process.

13. Respondent reserves the right to amend, modify, revise and plead further any additional defenses, affirmative or otherwise, during the course of these proceedings.

WHEREFORE, Respondent prays that an Order dismissing the Consolidated Complaint in its entirety with prejudice, be entered, and that Respondent have such other and further relief to which it may be entitled.

Dated: July 25, 2022

Respectfully submitted,

/s/ Alan I. Model
Alan I. Model, Esq.
Littler Mendelson, P.C.
One Newark Center, 8th Floor
Newark, New Jersey, 07102
T: (973) 848-4700
E: amodel@littler.com

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Answer to Consolidated Complaint were served on the following by electronic filing, email and/or U.S. mail on July 25, 2022.

Olga C. Torres, Acting Regional Director National Labor Relations Board, Region 2 26 Federal Plaza, Suite 3614 New York, New York 10278-3699
Marie B. Hahn, Esq., <i>Counsel for Charging Party</i> Cohen, Weiss & Simon LLP 900 Third Avenue, Suite 2100 New York, New York 10022-4869 E: mhahn@cwsny.com

Respectfully submitted,

/s/ Alan I. Model
Alan I. Model, Esq.
Littler Mendelson, P.C.
One Newark Center, 8th Floor
Newark, New Jersey, 07102
T: (973) 848-4700
E: amodel@littler.com

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

SIREN RETAIL CORPORATION

and

**Cases 02-CA-292646
02-CA-293869
02-CA-295319**

**NEW YORK NEW JERSEY REGIONAL
JOINT BOARD, WORKERS UNITED,
AFFILIATED WITH SERVICE
EMPLOYEES INTERNATIONAL UNION**

**ORDER APPROVING CONDITIONAL WITHDRAWAL REQUEST AND
WITHDRAWING CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

On July 12, 2022, a Consolidated Complaint and Notice of Hearing issued in the above-captioned matter. On September 23, 2022, the Charging Party requested permission to conditionally withdraw the charges on which the Consolidated Complaint was based, pursuant to a private settlement with the Respondent. Having duly considered the matter,

IT IS HERBY ORDERED that the Charging Party's request to withdraw the charges is hereby approved, conditioned on the performance of the undertakings in that private agreement. The charges and Consolidated Complaint are subject to reinstatement for further processing if the Charging Party requests reinstatement, and supports its request with evidence of non-compliance with the undertakings in the private agreement.

IT IS FURTHER ORDERED that the Consolidated Complaint and Notice of Hearing, be and it hereby is, withdrawn.

Dated at New York, New York
September 26, 2022

A handwritten signature in black ink, appearing to read "John D. Doyle, Jr." with a stylized flourish at the end.

John D. Doyle, Jr., Regional Director
National Labor Relations Board, Region 2
26 Federal Plaza, Room 3614
New York, NY 10278-0104